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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,352	02/14/2006	Yoshiaki Sato	2660.0005C (SUZ0027-US)	3363
92270	7590	11/12/2010	EXAMINER	
Edell, Shapiro & Finnan LLC 1901 Research Blvd Suite 400 Rockville, MD 20850			ABYANEH, SHILA	
			ART UNIT	PAPER NUMBER
			3764	
			MAIL DATE	DELIVERY MODE
			11/12/2010 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/568,352

Applicant(s)

SATO, YOSHIKAI

Examiner

SHILA ABYANEH

Art Unit

3764

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 October 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 13-15, 19-21.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.

/LoAn H. Thanh/
Supervisory Patent Examiner, Art Unit 3764

/S. A./
Examiner, Art Unit 3764

Continuation of 13. Other: Applicant's focus is on the "authentication means". Applicant recites "there are two separate ("first" and "second") input/recording means pairs, and the first input means is adapted to be freely attached to and removed from the main body and of the device and is subject to authentication" (pg. 7 or Remarks). The Examiner would like to mention that as cited in the Final action pages 2-5 sent out on 08/27/2010, Jacobs in view of Burgert and Matsui provides a system with two separate inputs. Jacobs specifically teach an input means for a physician and another for a patient (Fig. 2). Burgert also teaches a control set that is generally accessible to the doctor and not the patient for setting a critical pressure and duration values for the patient and the patient can use another control set to vary these values, but the patient's input can never exceed the value preset by the doctor (the patient's input value would be the maximum for the patient) (col. 4 and claim 6) and Matsui teaches input means that can be freely attached to the device (See the previous office action). On Page 8 of the Remarks, Applicant points out to Figures 21 and 22 of the present application for authentication means and asserts that "wherein in a stand-by mode, the system can enter a "trainer mode" only when valid data is authenticated. If not authenticated, the system proceeds to a "user mode". In the user mode, a user can still operate the system up to the maximum compression pressure, but not beyond the critical pressure". Based on what the applicant has argued and Figures 21-22, it seems that there exist only one input means, that if it receives authentication data, it would go to a trainer mode, and if not, it goes to a user mode which enables a user to use the device. Therefore, the authentication means is used for one input means which can serve as both the first and second input means. This conflicts with the user's first argument of having two separate input means. Applicant further argues "Englehardt discloses only the use of authorization in connection with enabling equipment to operate at all or providing access to a facility, whereas in the claimed invention authentication is used only in connection with the first input means, and where authentication fails, the compression pressure control unit will be placed in a user mode that will still allow a user to operate the equipment". The Examiner would like to point out that the underlined part above is not found in the claim language as currently presented. The Examiner would like to also refer the applicant to col. 2 lines 18-27 and claim 1 of Englehardt, wherein Englehardt teaches authentication means being used in connection with an input means to check and see if the user is an authorized user to be entered into a club or use an equipment. Only the authorized users are given access to the club and its facilities. The same applies with Imai, Fig. 10, wherein the authentication is done to see if the doctor is an authorized doctor for the patient through entering a password. As a result, the authentication process which is used only to verify the right user for the device operation through an input means, is being taught by both Englehardt and Imai. Please note that separate/different (doctor/patient) input means have already been taught by Jacobs in view of Burgert and Imai. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, upon combining the references (as shown in previous office action), the claimed invention is being taught. As a result, the 103 rejection is being maintained.